

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

In Re: BARD IVC FILTERS
PRODUCTS LIABILITY LITIGATION

Case No. 2:15-md-02641-DGC
MDL No. 2641

This Document Relates to:
cv-15-1655-PHX-DGC
Marcia Roeder vs. Bard, et al.

**UNOPPOSED MOTION TO SUBSTITUTE PARTY PLAINTIFF AND FOR LEAVE TO
AMEND COMPLAINT**

Counsel, pursuant to Rule 25(a)(1) of the Federal Rules of Civil Procedure, moves this Court for an Order substituting Steven A. Roeder on behalf of his deceased mother, Marcia Roeder.

1. Marcia Roeder filed a products liability lawsuit against Defendants on April 30, 2015, in the Northern District of Ohio – Western Division.

2. On August 17, 2015, Plaintiff's cause of action was transferred to the United States Judicial Panel on Multi-district Litigation – MDL No. 2641.

3. On February 16, 2016, Plaintiff's counsel served Bard with a Plaintiff Profile Form ("PPF") for Plaintiff Marcia Roeder. The PPF indicated that Ms. Roeder was deceased.

4. On February 25, 2016, Defendants filed and served a Notice of Suggestion of Death [Doc. 879].

5. Steven A. Roeder, surviving son of Marcia Roeder, is a proper party to substitute for Plaintiff-decedent Maria Roeder and has proper capacity forward with the surviving products liability lawsuit on her behalf, pursuant to Fed.R.Civ.P.25(a)(1). "If a party dies and the claim is not extinguished, the Court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative"

Steven A. Roeder further seeks leave to file the attached short form complaint to substitute himself as Plaintiff on behalf of Plaintiff-decedent Marcia Roeder and to add survival action claims. Marcia Roeder did not pass away until after the original filing of the Complaint, and therefore, the survival action claims could not be made until this time. (see Amended Short Form Complaint, attached hereto as Exhibit 1).

Plaintiff's counsel has conferred with Defendants' counsel and Defendants do not oppose the filing of this motion.

Based on the foregoing, Steven A. Roeder requests that this Court grant his request for substitution as Plaintiff in this action and for leave to file the Amended Short Form Complaint, and direct the Clerk to file the attached Short Form Complaint.

Dated: June 3, 2016

/s/ Ben C. Martin

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CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2016, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/ Ben C. Martin

Ben C. Martin